PENGAD 800-631-6989
EXHIBIT
A

AO 88 (Rev. 12/06) Subpoena in a Civil Case

Issued by the

UNITED STATES DISTRICT COURT

Eastern District of North Carolina

S. GREGORY HAYS, Receiver for
Mobile Billboards of America, Inc.,
California Mobile Billboards, et al.,

Plaintiff,

v.

PAUL, HASTINGS, JANOFSKY,
& WALKER LLP

Defendant.

SUBPOENA IN A CIVIL CASE

CASE NUMBER: 1:06-CV-754-CAP
(Pending in the United States District Court
For the Northern District of Georgia, Atlanta Division)

TO: Michael Lomas
c/o Stephen Peterson
Smith Moore LLP
2800 Two Hannover Square
Raleigh, NC 27601

☐ **YOU ARE COMMANDED** to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☒ **YOU ARE COMMANDED** to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
Smith Moore LLP 2800 Two Hannover Square Raleigh, NC 27601 *(Deposition to be recorded by video)*	August 13, 2007 at 9:30 a.m.

Mobile Billboards of America, inc., California Mobile Billboards, et. ..., Janofsky and Walker, LLP Doc. 1 Att. 1

☒ **YOU ARE COMMANDED** to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects): **See Attached Exhibit "A"**

PLACE :	DATE AND TIME
Smith Moore LLP 2800 Two Hannover Square Raleigh, NC 27601	August 3, 2007 at 9:30 a.m.

☐ **YOU ARE COMMANDED** to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (indicate if attorney for plaintiff or defendant)	DATE
	7-27-07

ISSUING OFFICER'S NAME ADDRESS AND PHONE NUMBER:
Thomas W. Curvin
Sutherland Asbill and Brennan LLP
999 Peachtree Street, N.E., Atlanta, Georgia
Phone: (404)853-8000

(See Rule 45 Federal Rules of Civil Procedure Parts (c), (d), and (e) on next page)

[1] If action is pending in district other than district of issuance, state district under case number

AO 88 (Rev. 12/06) Subpoena in a Civil Case

PROOF OF SERVICE

SERVED:	DATE:	PLACE:
SERVED ON (PRINT NAME)	MANNER OF SERVICE:	
SERVED BY (PRINT NAME)	TITLE:	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on : ______________________
DATE

____
SIGNATURE OF SERVER

____
ADDRESS OF SERVER

____

____

Rule 45, Federal Rules of Civil Procedure Parts (c), (d), and (e), as amended on December 1, 2006:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises — or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from
significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) (A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) (A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things
not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by clause (ii) of subparagraph (c)(3)(A).

ATTACHMENT A

INSTRUCTIONS

1. You are to produce all responsive documents in your possession, custody or control. A document is in your possession, custody or control if it is in Your possession or the possession of someone from whom You have the right to secure or compel production of the requested documents.

2. Documents shall be produced either as they are kept in the usual course of business or as organized and labeled to correspond to the categories set forth herein below. File folders, labels and indices identifying documents requested herein shall be produced intact with such documents. Documents attached to each other shall not be separated.

3. These requests include the production of all nonidentical copies, including copies upon which notes have been made and drafts.

4. If any requested document is no longer in existence, state for each such document the type of document and the circumstances under which the document ceased to exist.

5. To the extent any request is objected to, set forth all reasons therefore. If a privilege is claimed as a ground for not answering any request in whole or in part, describe the factual basis for the claim of privilege in sufficient detail so as to

permit the Court to ascertain the validity of such claim. Each such document for which privilege is claimed shall be identified by providing the following information: date, sender, recipients, recipients of copies, every person known to have seen or been told of the contents of the document.

6. These requests are intended to be continuing in nature so as to require the addition of supplemental information as set forth in Federal Rule of Civil Procedure 26(e).

DEFINITIONS

1. "You," "Your," or "Lomas" means Michael Lomas, and all employees, agents, and attorneys of Michael Lomas.

2. "Communication" includes all written, oral, electronic, or recorded communications as well as any documents that reference or relate to meetings or telephone calls.

3. The term "document" is used in the broadest sense, and shall mean any tangible thing as well as every writing or record of every type and description now or ever in Your possession, custody, or control, or the possession, custody, and control of anyone acting on Your behalf, and shall include, without limitation, the following, whether printed, reported, stored on computer, written or produced by hand, filmed, or reproduced by any process, including originals, masters, drafts of

originals or masters, and copies; letters, correspondence, communications, messages, notes, memoranda, contracts, agreements, pleadings, depositions, checks, canceled checks, receipts, affidavits, statements by individuals or entities, books, records, books of account, reports, applications, summaries, minutes and records of telephone conversations, minutes and records of meetings and conferences, personal memoranda, memoranda to files, inter-office memoranda, intra-office memoranda, lists, worksheets, financial statements, expense reports and records, summaries and records of personal conversations or interviews, phonographs, manuals, publications, diaries, charts, logs, cablegrams, telegrams, mailgrams, income statements, balance sheets, transcriptions, voice recordings and transcriptions thereof, electronic mail, plans, sketches, drawings, prints, graphs, photographs, reports and summaries of investigations or surveys, opinions and reports of consultants, valuations, analyses, reports (whether expert or otherwise), reports and summaries of negotiations, brochures, pamphlets, proposals, designs, catalogs, catalog sheets, specifications, advertisements, circulars, invoices, work orders, purchase orders, studies, calculations, reviews, working papers, video or audio tapes, voice recordings, computer tapes, printouts or cards, microfilms, microfiches, and any papers or items on which words have been written, typed, or otherwise affixed.

4. "MBA" means Mobile Billboards of America, Inc., including its predecessors, partners, owners, directors, and employees.

5. "CMBI" means California Mobile Billboards, Inc., including its predecessors, partners, owners, directors, and employees.

6. "OMI" means Outdoor Media Industries, including its predecessors partners, owners, directors, and employees.

7. "IPC" means International Payphone Company, including its predecessors partners, owners, directors, and employees.

8. The terms "relate to," "relating to," or "regarding" mean having any relationship or connection to, concerning, being connected to, commenting on, responding to, containing, mentioning, evidencing, showing, memorializing, describing, analyzing, reflecting, pertaining to, comprising, constituting, or otherwise establishing any reasonable, logical or causal connection.

9. "SEC" means Securities and Exchange Commission and its employees.

10. The "Actions" means: the action initiated by the SEC in the Northern District of Georgia on or around September 21, 2004 entitled *SEC v. Mobile Billboards, et al.*, Case No. 1:04-cv-2763; the action initiated by the SEC in the Northern District of Georgia on or around May 13, 2005 entitled *SEC v. Scott Hollenbeck, Timothy Bradshaw and Steven K. Gilley*, Case No. 1:05-cv-01272; the

action initiated by Scott Hollenbeck, among others, in the Middle District of North Carolina on or around November 1, 2004 entitled *Barbara Allison, et al. v. Michael Lomas, et al.*, Case No. 1:04-cv-00991; and the administrative proceeding brought by the North Carolina Securities Division on or around April 2, 2004 involving MBA.

11. "Relevant Entities" shall mean: MBA; CMBI; OMI; IPC; Reserve Guaranty Trust; Tiger Media Inc.; Outdoor Technology Reseources, Inc.; Direct Marketing, Inc.; US Scooter Corporation; Satellite Audited Media, Inc.; California Ground Company, LLC; Oregon Retail Management, LLC; Valet and City Parking Services, LLC; F/S Worldwide Media & Communications, LLC; The Walker's Experience, LLC; P&P Steel, LLC; Pike Amusement & Entertainment, LLC; California Retail Management, LLC; Walker's By The Cup, LLC; Spa W, LLC; KP Iron, Inc.; New York Retail Management, LLC; Walker Retail, LLC; National Payphone Corporation; Atlantic Public Telephone Corporation; CRS Communications Corporation; JSL, Inc.; Onyx Communications, Inc.; United Telecommunications, Inc.; Cocoon International, Inc.; Ontrac Corporation; Oliver Communications, Inc.; Payphones of America, Inc.; Arrowhead Trust, Inc.; First Century, LLC; Direct Marketing Institute; American Guaranty Trust; Western Reserve Guaranty Trust; First Century Complex Trust; 10/26/84 Charitable

Remainder Unitrust; 10/26/84 LLC; Michael Lomas Charitable Foundation; and Michael Lomas Insurance Trust.

12. "Paul Hastings" shall mean Paul, Hastings, Janofsky & Walker LLP and its attorneys, partners, and employees.

13. "Receiver" shall mean S. Gregory Hays and all employees and attorneys employed by the Receiver, including, but not limited to: J. David Dantzler; Daniel S. Reinhardt; Jaime L. Theriot; and Thomas E. Borton, IV.

14. "Relevant Individuals" shall mean: You;Vince Barreca; Sue Knight; Allison Lomas; Barry Maloney; Barbara Plattenberg; Michael Young; Jim Gibson; Timothy L. Bradshaw; Jay Castro; Steve Gilley; Arthur Anderson; Scott Hollenbeck; Laurinda Holohan; Lesley Hawks; and William Russell.

REQUESTS FOR THE PRODUCTION OF DOCUMENTS

Rule 45(a)(2)(c) for "production" [illegible]

1. All documents produced pursuant to any and all previous subpoenas in the Actions.

2. All documents received from or sent to Paul Hastings regarding the Relevant Entities and/or the Relevant Individuals.

3. All documents received from or sent to any of the Relevant Entities.

4. All documents received from or sent to any of the Relevant Individuals regarding the Relevant Entities.

5. All documents received from or sent to the SEC or the Receiver pertaining to the Relevant Entities.

6. All tolling agreements or settlement agreements related to the Actions or the Relevant Entities.

7. All documents related to any tolling agreement or settlement agreement responsive to Request No. 6.

8. All documents including, but not limited to, correspondence received from any law firm (other than Paul Hastings) regarding any of the Relevant Entities or Relevant Individuals.

9. All documents describing or relating to the Relevant Entities from any and all sources, including any and all materials created by you.

10. All documents that refer or relate to the Relevant Entities including, but not limited to, any and all files maintained by you as an employee or representative of the Relevant Entities.

11. All documents that evidence or refer to any communication between you and any of the Relevant Entities.

12. All documents that evidence or refer to any communication between you and/or any of the Relevant Individuals.

13. All documents that evidence or refer to any communications by or between any of the Relevant Entities and Relevant Individuals.

14. All documents that refer to or relate to any assets of any of the Relevant Entities.

15. All documents that refer or relate to any bank account, brokerage account, savings account or other accounts of any nature maintained by or on behalf of any of the Relevant Entities or the Relevant Individuals.

16. All documents that evidence or relate to the formation, structure or current legal nature, form or status of any of the Relevant Entities, or any subsidiary or affiliated corporation, partnership or other entity that is in any way affiliated with any of the Relevant Entities or any of the Relevant Individuals. This request specifically includes, but is not limited to, articles of incorporation, by-laws, minute books, partnership agreements or similar documents.

17. All documents that evidence or refer to any agreement to which any Relevant Entity is or has been a party since January 1, 1999.

18. All documents that evidence or relate to any sale, conveyance, hypothecation, gift or other transfer of any asset of any Relevant Entity since January 1, 1999.

19. All documents that relate to any property, business, books, records, accounts or assets of any Relevant Entity.

20. Documents that evidence or relate to any and all bank accounts, brokerage accounts or other accounts of any kind, including escrow accounts, maintained by you on behalf of any of the Relevant Entities or Relevant Individuals at any time since January 1, 1999.

21. All documents which evidence or relate to any and all communications with third-parties by or with you as an employee, agent or representative of any Relevant Entity or Relevant Individual at any time since January 1, 1999.

22. Documents that evidence or relate to any and all bank accounts, brokerage accounts or other accounts of any kind including escrow accounts, maintained by you into which money has been deposited that was paid or transferred (directly or indirectly) from any of the Relevant Entities and/or Relevant Individuals.

23. All documents that evidence or relate to any payments or other transfers of money received by you since January 1, 1999 from or on behalf of any of the Relevant Entities or Relevant Individuals. This request specifically includes checks, wire transfer transmittals and accounting records indicating the amount, date and nature of any such payment or transfer and from whom it was received.

24. All documents related to the then-current and/or future viability of the Relevant Entities.

25. All documents showing that documents responsive to Request No. 25 were transferred to Paul Hastings.

26. All personal organizers, calendars, date books or similar materials used by you since January 1, 1999.